

DEC 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GURMINDER KAUR,</p> <p>Petitioner,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p>Respondent.</p>

No. 07-70596

Agency No. A096-494-642

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 17, 2009**

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Gurminder Kaur, a native and citizen of India, petitions for review of the Board of Immigration Appeals' order dismissing her appeal from an immigration judges's decision denying her application for asylum, withholding of removal, and

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review adverse credibility determinations for substantial evidence, *Don v. Gonzales*, 476 F.3d 738, 741 (9th Cir. 2007), and we deny the petition for review.

Substantial evidence supports the agency’s adverse credibility finding based upon Kaur’s internally inconsistent testimony as to whether the police told her how they thought she was working against the government. *See id.* at 741-42 (inconsistency goes to the heart of the claim if it concerns events central to petitioner’s version of why she was persecuted). Substantial evidence further supports the agency’s adverse credibility finding based upon the inconsistency between Kaur’s declaration and her testimony regarding whether her brother, who Kaur testified was also targeted by the police, was at home when the police came to the house after Kaur’s release from detention, *see Kohli v. Gonzales*, 473 F.3d 1061, 1071 (9th Cir. 2007), and based upon Kaur’s non-responsive and evasive answers to questions regarding her testimony, *see Wang v. INS*, 352 F.3d 1250, 1256-57 (9th Cir. 2003). Absent credible testimony, Kaur’s asylum and withholding of removal claims fail. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

Because Kaur's CAT claim is based on the same testimony the agency found not credible, and Kaur does not point to any other evidence the agency should have considered, her CAT claim also fails. *See id.* at 1156-57.

PETITION FOR REVIEW DENIED.